

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MICHELLE JOHNSON
254 East 218th Street
Cleveland, OH 44123

Plaintiff

-vs-

UNITED STATES OF AMERICA
c/o Attorney General Eric H. Holder, Jr.
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

-and-

UNITED STATES OF AMERICA
c/o Steven M. Dettlebach, U.S. Attorney
Office of the U.S. Attorney
801 West Superior Avenue, Suite 400
Cleveland, Ohio 44113-1852

-and-

UNITED STATES OF AMERICA
c/o Jeffrey S. Davis, Associate General Counsel
General Law Division
330 Independence Avenue, S.W., Room 5362
Washington, DC 20201

Defendants

CASE NO. _____

JUDGE _____

COMPLAINT

Federal Tort Claims Act

PARTIES / JURISDICTION / VENUE

1. Plaintiff, MICHELLE JOHNSON, brings the following claim for medical malpractice pursuant to Federal Tort Claims Act, 28 U.S.C. § 1346(b).

2. At all times herein relevant plaintiff, MICHELLE JOHNSON, was a resident of Cuyahoga County, State of Ohio.

3. At all times herein relevant, the negligent conduct alleged by plaintiff, MICHELLE JOHNSON, to have directly and proximately caused her injuries was attributable to employee(s) of the United States government while in the course and scope of said employee(s) governmental employment with the Veterans Administration Medical Center (VA), in Cuyahoga County, State of Ohio.

4. Pursuant to 28 U.S.C. § 1346(b), 2675, plaintiff timely presented an Administrative Tort Claim with the appropriate United States government agencies, Louis Stokes Cleveland VA Medical Center and the Department of Veterans Affairs,

5. Plaintiff's Administrative Tort Claim was accepted for consideration by the Department of Veterans Affairs.

6. Plaintiff's claim was formally denied on July 10, 2013, after consideration of the claim by the agency.

FIRST CLAIM FOR RELIEF

7. At all times relevant herein, defendant, UNITED STATES OF AMERICA, through its Department of Veterans Affairs, was a medical center duly licensed within and under the laws of the State of Ohio, and was engaged in such practice in the County of Cuyahoga, State of Ohio, and was at all times mentioned herein an entity of the Department of Health and Human Services, an agency of UNITED STATES OF AMERICA, and held itself out to the public, and specifically to plaintiff, MICHELLE JOHNSON, as a health center with competent staff and employees.

8. At all times relevant herein, doctors, residents, interns, agents and employees of defendant, UNITED STATES OF AMERICA, through its Department of Veterans Affairs, were acting within the course and scope of their employment with the Department of Health and Human Services, and therefore the Department of Health and Human Services is liable for all claims made herein.

9. During the period of time for which the Department of Veterans Affairs treated MICHELLE JOHNSON for her chest pain, the defendant, UNITED STATES OF AMERICA, through its Department of Veterans Affairs, by and through its agents and employees, undertook to provide the plaintiff, MICHELLE JOHNSON, with safe, adequate and acceptable medical care, treatment and diagnosis.

10. The defendant, UNITED STATES OF AMERICA, through its Department of Veterans Affairs, by and through its agents and employees, negligently failed to provide plaintiff, MICHELLE JOHNSON, with safe, adequate and acceptable medical care, treatment and diagnoses. Specifically, MICHELLE JOHNSON, was having chest pains on May 23, 2011, while at work. Plaintiff, MICHELLE JOHNSON, presented at the Emergency Department of the Cleveland VA Medical Center wherein an IV line was negligently placed in her right hand resulting in Complex Regional Pain Syndrome.

11. By reason of the negligent acts and/or omissions on the part of the defendant, UNITED STATES OF AMERICA, through its Department of Veterans Affairs, by and through its agents and employees, and as a direct and proximate result thereof, plaintiff, MICHELLE JOHNSON, experienced pain and suffering, a loss of enjoyment of life and more specifically, Complex Regional Pain Syndrome, which resulted in pain, lost wages, pain shots, nerve blocks, diminished use of dominant right hand and future medical treatment (including surgery) anticipated.

12. The aforementioned negligent conduct of agents and employees of the VA Medical Center of defendant, UNITED STATES OF AMERICA, fell below the appropriate standard of medical care, skill and diligence.

WHEREFORE, plaintiff, MICHELLE JOHNSON, prays for judgment against the defendant, UNITED STATES OF AMERICA, in the amount of Two Million Eight Hundred Thousand Dollars (\$2,800,000.00) to fully and fairly compensate her for her injuries, costs of this action, attorney fees and for such other relief that this Court deems just and equitable.

AFFIDAVIT OF MERIT

Attached hereto and incorporated herein is the Affidavit of Merit of Jill Hardy, R.N.

/S/ RICHARD L. DEMSEY

Richard L. Demsey, Esquire

S. Ct. No. 0003518

RICHARD L. DEMSEY CO., L.P.A.

U.S. Bank Centre

1350 Euclid Avenue, Suite 1550

Cleveland, Ohio 44115

Tel: (216)-263-7900; Fax: (216) 263-7901

Email: rdemsey@demseylaw.com

Attorney for Plaintiff

AFFIDAVIT OF MERIT

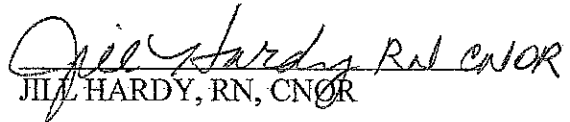
STATE OF OHIO)
)SS:
COUNTY OF STARK)

Jill Hardy, RN being first duly sworn, states the following to be true:

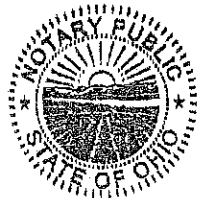
1. I submit this Affidavit of Merit in accordance with Civ. R. 10(D)(2)(a).
2. I am licensed to practice nursing by the Ohio State Nursing Board and have been so licensed since 1993. I am presently employed as a Registered Nurse. I am also a certified nurse in the operating room (CNOR).
3. I devote at least one-half (½) of my professional time to the active clinical practice in my field of licensure.
4. I have reviewed all medical records reasonably available to the plaintiff concerning the allegations contained in the Complaint in the case of Michelle Johnson, et al vs. Louis Stokes Veterans Medical Center, et al.
5. I am familiar with the accepted standards of care in this case.

6. In my opinion, the Defendant deviated from the accepted standards of care, and such deviations caused injury to Michelle Johnson.
7. My opinions are to a reasonable degree of probability within my profession.

FURTHER AFFIANT SAYETH NAUGHT.


JILL HARDY, RN, CNOR

SWORN TO before me and in my presence on this 18 day of Dec 2012.



KERIN D. PARRACK
Notary Public, State of Ohio
My Commission Expires
January 17, 2016


NOTARY PUBLIC